

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR 4265 of 2016

Date of Decision: November 13, 2018

Charanjeet Singh

.....Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. A.K. Khunger, Advocate
for the petitioner.

Mr. C.L. Pahwa, Sr. DAG, Punjab.

Mr. Jaspreet Dhaliwal, Advocate
for respondents No. 2 and 3.

FATEH DEEP SINGH, J. (Oral)

In a trial of case bearing FIR No. 154 dated 23.09.2014 under Sections 305, 306 and 34 IPC pertaining to Police Station City Sri Muktsar Sahib, an application was moved by the prosecution under Section 319 Cr.P.C. for summoning of Kulwinder Kaur and Manpreet Singh as additional accused on the grounds that sufficient evidence has come about against them necessitating them to face trial alongwith their co-accused. The Court of learned Sessions Judge, Sri Muktsar Sahib through the impugned order dated 19.10.2016 dismissed the

application and that is the subject matter of challenge in this petition by way of revision filed by the complainant side.

Heard Mr. Ashok K. Khunger, Advocate for the petitioner, Mr. C.L. Pahwa, Sr. DAG, Punjab/respondent No.1 and Mr. Jaspreet Dhaliwal, Advocate for respondents No. 2 and 3 and perused the records.

The FIR, which is Annexure P-1 and was got registered by complainant Charaneet Singh is the document first in point of time. In this, the allegations have come out wherein it is categorically stated by the complainant that his first marriage was solemnized in the year 1997 with Sarabjeet Kaur, out of which, he was having a daughter Gurpreet Kaur and who was subsequently baptized as Jaspreet Kaur. On account of matrimonial dispute Sarabjeet Kaur and the complainant secured a divorce. The daughter remained with the father and in the year 2002, the complainant again solemnized marriage with Sukhwinder Kaur also referred to as Kirandeep kaur. It is alleged that from this second marriage, the complainant gave birth to a son Parminder Singh and on account of some matrimonial dispute it is alleged that the second wife used to ill-treat the daughter of the complainant from the first wife and often gave her beatings when the complainant was away. Initially, the daughter had kept on bearing the mental and physical abuse of the step mother who subsequently disclosed it to the complainant that the torture at the hands of Sarabjeet

Kaur has gone to such an extent that she might be forced to take some ugly step. In spite of best efforts of the complainant, the matter could not be ironed out and bickering continued. The matter was subsequently brought to the notice of the close relatives including sister-in-law Kulwinder Kaur and to brother-in-law Manpreet Singh, (so sought to be summoned as additional accused). It is there in his statement in the FIR of subsequent criminal acts of both these persons against the deceased and that subsequently the daughter out of the desperation recollected what she has been made to undergo and details of these atrocities by both these persons are very well enshrined in this. The complainant in his testimony as PW1 and PW2 Gurpal Singh uncle of complainant Charanjit Singh too reproduced these allegations in toto and which need not be reproduced here for the sake of brevity. The learned Court below while passing the impugned order had placed reliance on **Hardeep Singh Vs. State of Punjab, 2014 (1) R.C.R. (Criminal) 623**, holding that a certificate has been issued by Major, OC, A Sqn, Deccan Horse, C/o 56 APO that Manpreet Singh was present on the duty on the dates. Thus, on the basis of this document has refused to allow the application. It needs to be reiterated here that it is not a document proved legitimately as legal piece of evidence. Being a plea of *alibi* set up by the accused has to be weighed on the scales of legal evidence and, thereafter, only then conclusions can be drawn and that too by doing so, the Court below has certainly

run into an error going to the very roots of the impugned order rendering it infirm and perverse. In Hardeep Singh's ratio and so in subsequently views, the Courts have held that evidence collected during the course of inquiry can be used for corroboration of the evidence recorded at the trial and, thus, has to be broadly understood and cannot be termed as evidence tested by cross-examination. Their Lordships have categorized that material coming before the Court in course of such inquiries can be used for corroboration of the evidence recorded in the Court after the trial commences and, therefore, enunciated and also to add as an accused whose name has been shown in the column No. 2 of the charge sheet. Reverting back to the instant case, the Court below has certainly misinterpreted the documents and has come to a totally unjustified conclusion resulting in immense prejudice to the case of the petitioner, thus, necessitating intervention by this Court by way of acceptance of the instant revision and setting aside the impugned order.

Ordered accordingly.

Trial Court to proceed ahead into the matter as per law.

November 13, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No